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रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, १४ जनवरी, १९६६/२४ पौष, १९६७

GOVERNMENT OF HIMACHAL PRADESH GENERAL ADMINISTRATION DEPARTMENT

No. 18-25/65-GAD.

Simla-4, the 14th December, 1965

RESOLUTION

Read—*Report of Inquiry Commission, 1965, on The Boat Tragedy in Govindsagar.*

Observations.

The Government of Himachal Pradesh are grateful to the Single-Member Commission, Shri Hem Chand, District and Sessions Judge, Mahasu, Sirmur and Bilaspur districts, for having examined with ability the important issues which had been referred to the Commission. Government are aware

of the amount of work involved in the collection and examination of the voluminous evidence placed before the Commission and take this opportunity of recording their appreciation of the labour and industry devoted to the task by the Commission in public interest.

The Government, further, take the opportunity to record their appreciation of the labour and industry devoted in public interest by all who appeared before, and assisted, the Commission in the ascertainment of facts.

The conclusions of the Commission have been accepted by the Government.

These conclusions, inter alia, record that neither the Himachal Pradesh Government nor any of its employee was in any way responsible for boat tragedy. The accident was due to natural causes directly and exclusively without human intervention. It could not have been prevented by any amount of foresight, pains and care, reasonable expected from the government or its employees or the crews.

ORDER

ORDERED that this Resolution, together with the Commission's Report, be published in the Himachal Pradesh Rajpatra for general information.

Ordered also that copies of the Resolution and Report be released for sale to the public.

By order,
T. S. NEGI,
Chief Secretary.

**REPORT OF INQUIRY
OF
THE BOAT TRAGEDY IN GOVINDSAGAR ON
18-3-1965**

PRELIMINARY.

On the 18th March, 1965, a boat, Jalmani by name, started from Bhakra Ghat somewhere after 5.30 P.M. for Brahmani Ghat. The boat did not arrive at Brahmani Ghat. It capsized at about 7.00 P.M. near Nihani village. Some of its passengers managed to get out and some died or were drowned, as the boat sank.

Chhotu, Conductor of the boat, informed Radha Krishan, Pradhan of the Gram Panchayat Brahmani Kalan, at about 10.30 P.M. of the accident. Radha Krishan wrote out a Rukka for the Police Station Talai, informing of the accident. (He noted such facts in the Rukka what he had come to know from Chhotu Ram). This Rukka was given to Chhotu Ram to be taken to the Police Station Talai at about 1.00 A.M. on the night between 18th and 19th March. The S.H.O. Talai received that information and he recorded a report in the Roznamcha. He also sent a message to the Superintendent of Police per constable Sant Ram and himself left for the spot alongwith Balak Singh, Head constable, and two constables.

S. P. Bilaspur received the message on the 19th March at about noon. He immediately informed the D. C. Bilaspur and also informed the Inspector General of Police through Wireless Message. Superintendent of Police Bilaspur; Deputy Commissioner Bilaspur; Dr. Shukla, Medical Officer, Bilaspur and Thakur Karam Singh, Magistrate 1st Class, Bilaspur left Bilaspur at about 2.00 P.M. and went to Nangal.

On their arrival at Nangal, the Deputy Commissioner, Bilaspur, contacted the General Manager, Bhakra Dam Administration and requested for a motor boat to enable them to proceed to the place of occurrence. The General Manager advised him not to proceed on that evening as the water of the Sagar was disturbed due to storm and bad weather. He, however, advised him to contact Mr. Mehandiratta. Mr. Mehandiratta also advised the Deputy Commissioner not to proceed on that day as there was storm in the Sagar and it was not safe.

Mr. Mehandiratta, however, agreed to supply a motor boat on the following day, if the weather be favourable.

The Deputy Commissioner and party then went to Bhakra Dam and saw that the water in the Sagar was disturbed and there was storm. On the 21st March, he sent a report to the Chief Secretary, Himachal Pradesh Government.

On the 19th March, the Hon'ble Chief Minister, Himachal Pradesh, made a statement in the Vidhan Sabha that 52 persons were feared drowned, to-day, when a boat carrying them capsized in Govindsagar, about 5 miles from Bhakra Dam. The District Authorities had rushed to the scene of the tragedy with the medical aid, details were awaited. (This news item appeared in the 'Tribune' dated 20th March).

On the 20th March, after arrival at the site of occurrence, the Deputy Commissioner ordered an inquiry to be made by Shri Thakur Karam Singh, Magistrate 1st Class, Bilaspur, regarding the accident including the causes of the accident and losses sustained etc.

A news item appeared in the 'Tribune' March 21st, mentioning that out of about 82 passengers in the motor boat and 38 in the country boat, only 48 passengers survived. Another news item appeared in the 'Tribune' dated 22nd March, stating that death toll is over 100 souls according to eye witnesses.

On the 22nd March, Hon'ble Revenue Minister, Himachal Pradesh, on a call attention notice, stated that the accident took place at about 7.00 P.M. on March 18 at Nihani, five miles up-stream of the Bhakra Dam. The boat which was carrying 83 persons including 10 infants, was about 60 feet from the right bank. The sole cause of the accident appeared to be an un-precedented gale which lashed up water waves 15 feet high. The roof of the boat was broken. The intensity of the storm could be gauged from the fact that planks and life belts were found 15 to 20 feet back from the bank.....

The Hon'ble Minister further said that the Deputy Commissioner along with a Magistrate and the Medical Officer and Police reached Bhakra at 5.00 P.M. on that date (19th March). He tried to get a launch from the Bhakra authorities but they showed their inability in the matter due to the raising storm..... Out of the passengers, five belonged to Himachal Pradesh and the rest were from Punjab, who were on their way to Baba Balak Nath Sidh pilgrimage. (The above appeared in the 'Tribune' dated 23rd March). It was also mentioned in the same news item that besides the Magisterial inquiry, ordered by the D. C. into the boat disaster, the Himachal Government had ordered the judicial inquiry by the District and Sessions Judge, Mahasu, Sirmur, Bilaspur and Kinnaur districts.

A news item again appeared in the 'Tribune' dated 31st March. It appears from that news that Shri Rizk Ram, Hon'ble Minister for Irrigation (Punjab) said in the Council on the 29th March that the ghastly tragedy in the Govindsagar on March 18th, in which about 70 persons lost their lives has occurred due to gross negligence on the part of the boat man.

The boat man had not observed necessary rules and precautions, prescribed under Himachal Pradesh Ferries Act. The boat was definitely overloaded. They were running late and a launch was being followed.

On the 2nd April, 1965, the Hon'ble Revenue Minister, Himachal Pradesh, made a statement in the Vidhan Sabha in response to a call attention notice. He stated that it is wrong that the boat was being towed with the motor boat at the time of accident. He also denied that 70 persons have died and alleged that only 41 persons died.

He also referred to certain controversy that has been going on between the Bhakra Administration and the Local authorities. (This appeared in the 'Tribune' dated 3rd April).

A notification No. 13-28/65-LR, was issued on 9th April, 1965, appointing District and Sessions Judge, Mahasu, Sirmur, Bilaspur and Kinnaur districts, as the Commission of Inquiry under Section 3(1) of the Commissions of Inquiry Act, 1958 read with the Government of India, Ministry of Home Affairs, notification No. F-2/6/64-UTI, dated 30th May, 1964, requiring him to enquire into and report on the following matters in relation to this boat drowning tragedy in the Govindsagar, within three months of the date of this notification. This period was extended upto the end of July at the request of the Commission.

Commission
of Inquiry
appointed.

The terms of reference are as under:—

1. The manner in which the boat drowning tragedy took place.
2. The number and nature of casualties suffered.
3. Factors which contributed to or which were responsible for this tragedy.
4. The responsibility, if any, which can be fixed upon the Government or its employees.

The provisions of sub sections 2, 4 and 5 of Section 5 of the Commissions of Inquiry Act 1952 were also made applicable to the Commission.

In compliance with the notification, mentioned above, I caused notices to be issued in (1) Himachal Pradesh Government Gazette (2) The Tribune (3) Himachal Times and (4) Vir Pratap, Jullundur to the effect that I would be inquiring into the boat tragedy that took place in Govindsagar on the 18th March, 1965. I called upon persons who personally knew the facts of the tragedy; or any circumstance relating to the drowning of persons and sinking of the boat; or who knew about facts, which contributed to or which were responsible for the tragedy; or who can testify about the persons or number of persons, who suffered casualties and the nature of casualties, or persons who can testify if the Himachal Pradesh Government or its employees were in any way responsible for the tragedy and who are likely to give evidence before the Commission to file their statements in writing in duplicate, or through their lawyers or authorised agents, on the dates mentioned in that notice. It was also given to understand that they will also be required to give evidence before the Commission. It was specifically mentioned that the written statement will be received on 21.6.65 at the Circuit Court of the District Judge, Bilaspur.

Procedure
adopted.

The Deputy Commissioner, Bilaspur, was also requested for wide publicity of the above, by beat of drum in the concerned area. I was informed by the Deputy Commissioner, Bilaspur, vide his letter dated 21st May, 1965, that in compliance, copies of the Press Note in English and Hindi have been sent to all Station House Officers for wide publicity in their jurisdiction. The Deputy Commissioner, Bilaspur, also informed me that the Tehsildars Sadar and Ghumarwin have stated that wide publicity has been given by beat of drums in the concerned area.

Sixteen written statements, contained in two registered letters, were received from Ajit Singh and Dev Raj of tehsil Phillor, District Jullundur. Some other statements were presented

personally on the 19th, 20th and 21st May, 1965, in the Court room at Bilaspur. One statement was received on the 29th May under a registered cover from Delhi. Deputy Commissioner, Bilaspur, filed a statement containing the list of documents relied upon by the Government.

All persons, who had filed their written statements (whether their statements were received by post or personally) were informed of the date on which their statements would be recorded. Except the Government employees, all others were also informed that they would be paid their travelling expenses and diet money for the number of days, they will spend in coming and going from their place of residence and for the days they will have to appear before the Commission.

Out of the 16 persons, who had sent their written statements under two registered covers, 14 appeared before the Commission and were examined. In all, 37 witnesses were examined including the driver, conductor and owner of the illfated boat and Government employees concerned. A few documents were also filed by the contractor. The Government filed the record of the inquiry, prepared by Thakur Karam Singh, along with his report regarding the accident. The departmental file of the "Issue of Licences to the boats men of ferry contractors etc." was also kept on record.

The Himachal Pradesh Government and its employees who had filed their statements, were represented by a counsel and the contractor of the illfated boat had also engaged a counsel.

Some survivors of the boat and some others who filed their statements were not represented. I, therefore, appointed Sardar Jaswant Singh, Advocate, and President of the Bar as Commission's counsel to help the Commission in leading examination of all such persons.

During the course of the inquiry, Shri K. S. Patyal was engaged by some of the survivors of the boat as their counsel. He continued acting till the close of the inquiry.

After the close of the evidence, arguments of all the lawyers concerned were heard.

I inspected the site along with the lawyers and the Superintendent of Police and Deputy Commissioner, Bilaspur. I also prepared a rough site plan showing the bend in hillock, where the accident took place.

Two versions of the occurrence. There are really two versions of this tragedy. The version of the manner in which the tragedy took place as given by the set of witnesses from W 1 to W 14 is different from the version given by the other eye witnesses.

Version as given by a set of 14 witnesses.

The version given by these 14 witnesses is, that the motor boat started late in the evening at about 6.00 P.M. It was over-loaded. It contained near about 110 to 115 persons out of which 92 belonged to their own party. Every one of them had 30 to 35 Kilos of luggage with him. 4 or 5 goats were also loaded in this boat. After this boat had hardly travelled a few karams, a country boat containing some 55 to 65 persons was tied to it. When the boat had covered near about half of the journey, water started

coming inside the boat due to its load. At this stage, some of the passengers asked the driver of the boat to take the boat to the nearest bank, but the driver assured them that he would take them to the Ghat. When the boat was at a distance of 100-200 yds. from the Ghat, more water came inside the boat. The water in the boat was, according to some of them, knee deep and according to others even more than that. The driver then took the boat towards the place of occurrence and when the boat was within 7 or 8 karams from the bank, the driver jumped out taking a life-buoy with him and left the engine in its started condition. The water inside the boat at that time was as much as upto the waist and according to some, the boat was full of water upto few inches of the windows. Since the engine of the boat was on, it struck against the hillock two three times. Its roof was broken. Some persons at that time jumped out of the boat, others remained in the boat, they were drowned when the boat sank.

In brief, the version of this set of 14 witnesses is, that the accident was caused due to overloading of the boat. There was no storm or wind in the Sagar. Some of the witnesses have suggested that water in the boat came from within as if there were some cracks, or some plank of the motor boat had broken. Others have stated that due to wave, the boat tilted and the water came in. Still others have suggested that the tragedy was really due to the action of the driver in leaving the engine on and himself jumping out of the boat.

The other version is that there were only 72 persons inside the boat. A country boat had left earlier. It had some passengers, who were members of the party, which were sitting in the motor boat. The motor boat started sometime after 5.00 P.M. from Bhakra. The sky was no doubt cloudy at that time, but the weather was not bad.

Version as
given by
other wit-
nesses.

When they were at a distance from the bank, they met a country boat. A few passengers in the country boat requested that they should also be taken along with the rest of their party members and, therefore, the country boat was tied to the motor boat. Upto the half of the journey, the motor boat came nicely. There was no trouble, then there was storm. When the motor boat reached a place at a distance of some 100 yds. from the Brahmani Ghat, there appeared a big gale which turned the face of the motor boat. The gale was of such an intensity that the driver could not control the direction of the boat. He tried to take the boat to Badgaon Nala, where the winds would have been not so effective, but the boat proceeded towards the site of occurrence.

When the boat was nearing the bank, the driver put the engine in neutral position and asked his assistant to stand out on the covered front portion of the boat. When the boat was just near the bank, the two assistants, jumped out with the rope and the bamboo pole, with the intention of bringing the boat on the bank and to save it from striking against the hillock. But the storm was raging and the waves were so high that the boat struck against the hillock. The waves took it back and again struck against the hillock. The roof of the boat broke into pieces and the boat

sank in the water. When the two assistants of the driver jumped out, the driver asked the passengers to get out slowly and steadily from the front direction. After the boat had struck against the hillock, it tilted and water came into it. It was at that time, that the driver also came out of the boat.

The statement of these other eye witnesses is that there was a storm which turned the face of the boat. The waves tossed the boat. When the boat was within a few feet from the bank, the engine was put in neutral position. Due to waves, the boat struck against the hillock. Its roof was broken. Water came in and it sank. The driver was seen in the boat till last.

Discussion of evidence.

Facts brought on the record relating to reference No. 1 and 3 are inter-connected. I will, therefore, discuss the whole evidence together in the light of the conclusions drawn from the discussion of the evidence on various relevant points. Thereafter, I will answer the four points of reference.

In order to find out, as to what the real circumstances were, under which this tragedy took place, I shall examine the statements of the witnesses keeping in view the following factors, which find mention in the evidence:—

- (i) What was the load in the motor boat consisting of men and luggage etc. ?
- (ii) Whether the country boat was tied to the launch and its effect?
- (iii) At what time, the motor boat started from Bhakra Ghat and when accident took place?
- (iv) Whether water came inside the boat through cracks etc. and in what quantity?
- (v) Whether the driver left the boat with its engine on, if so, what was its effect?
- (vi) Whether the driver kept the engine in neutral position and what was its effect?
- (vii) Whether there was any storm, if so, of what intensity and with what effect?

What was the load in the motor boat.

Human load as alleged.

From the first set of witnesses, who all belong to Jullundur District, it appears that a number of persons had collected at Dhande village, tehsil Phillor. These persons came from different villages and belonged to different families. They arrived at Bhakra on the 18th noon. Generally, it is gathered from the statements of these witnesses that they were 92 in number consisting of some 40 males, 35 Females and 17 children.

There is no convincing evidence that there were definitely 92 persons who started from Dhande village. The number of these persons who started from Dhande was never counted. Persons from various families and different villages had assembled. None of them has been in a position to tell, as to how many villages and how many families, these people belonged. No list was prepared when they started from Dhande village nor any list was prepared when they boarded the boats. Though, some witnesses have tried to show that a list was prepared by Jit Singh, but he also denied and stated that the list was prepared by some other chap. However, the fact remains that no such list has been produc-

ed and it cannot be definitely said that 92 persons came from village Dhande. No body counted the number of these persons at any time. They are not even unanimous with regard to the fact that all 92 persons came together from village Dhande.

I may refer to the statements of only a few of these witnesses to prove that all these persons did not travel together from Dhande village to Bhakra.

Sansara, W 1, has stated that near about 92 persons came with him from his village Dhande. He has further stated that they started on foot upto village Gorya. Some 20-25 persons came by bus upto Phagwara, rest of them came on foot. If I take his version to be correct, it cannot be said that all these persons came together from village Dhande and arrived at Bhakra Ghat almost at the same time to enable them to take the same boat. Persons who left by bus from Gorya may have reached Bhakra earlier. It is in the evidence that a number of boats left Bhakra for Brahmani Ghat on the afternoon of the 18th March. It is quite possible that persons who arrived earlier at Bhakra Ghat may have taken their seats in boats that left before the illfated boat.

W 2, Santokh Singh, has stated that there is a Sharine of Baba Balak Nath in village Dhande. All 92 persons started from that place. Further on, he has stated that all the 92 persons came by bus from Dhande to Garhshanker and, thereafter, they proceeded on foot. The story as given by Santokh Singh is thus quite different from the story as given by Sansara. We can be sure that there were 92 persons at Bhakra at one and the same time, only if we believe Santokh Singh. But he too does not show that special buses were started and booked for them to carry the whole party together by bus to Garhshanker.

Rulia, W 3, has also stated that there were 92 persons, who came from village Dhande. He has stated that on return in the village, a list was prepared, then he came to know that 92 persons had left Dhande for Baba Balak Nath Sidh.

W 6, Mohini, has stated that he counted the number of the party on road between Garhshanker and Bhakra. He does not say as to what was the occasion for such counting. Such counting could be believed had he said that he counted to enable him to purchase tickets for the bus. But counting after arrival at Garhshanker does not sound to reason.

Some of them have given a different story as under:—

Lebhar Singh has stated that 75 persons started from village Dhande. Though, later on, he stated that the number of persons mentioned by him is approximate. In cross-examination, he stated that his to-day's statement that there were 75 persons of their party is correct.

Dalipa, W 10, has stated that 110-115 persons started from Dhande village.

Ajit Singh, W 12, had first stated that 52 persons of the party started from Dhande. When they were to start by boat, there were some 110-115 persons in the party. Later on, he amended his statement and stated that 92 persons started from Dhande.

From the above evidence, it is thus clear that none of them was really sure as to how many persons started from village Dhande. If we believe the statement of first two witnesses who alone have stated as to how they travelled from Dhande to Bhakra, it will have to be presumed that all of them did not arrive at Bhakra at one and the same time, because some of them came by bus and others by foot and even if all of them came by bus, it is not known that they had engaged enough buses to carry them all together in one trip to enable them to reach Bhakra at one and the same time. These witnesses have not been able to give the names of persons. With the exception of one or two, they have not been able to give the names of villages from which all these persons had come, not to speak even of the number of the families to which these persons belonged.

Ajit Singh, who admittedly acted as a leader of the party and has been making arrangements for the party, has stated that he purchased tickets for 40 persons and had collected tickets from all others. He has also stated that 30 or 31 persons belonged to Dhande village. He himself is a resident of village Dhande. It can be reasonably presumed that he may have purchased tickets for all these 30-31 persons belonging to his village. The story of collecting tickets from others, does not appear to be reasonable and there was no reason as to why he should have collected tickets from all others. The story given by some of the witnesses that he collected money from all and purchased tickets for all cannot be believed. It has not been supported by others, who have stated that they purchased their own tickets. Even Ajit Singh has not said that he purchased tickets for all the 92 persons.

It appears from the statement of these witnesses that no body personally knew as to how many persons, who had come from tehsil Phillor purchased tickets for seats in the motor boat. Many of the witnesses have suggested that Ajit Singh said that he had purchased tickets for 92 persons, but this is not being supported by Ajit Singh himself.

The result, therefore, is that neither any body counted the number of persons who came from Dhande village, nor all of them came together.

All that appears to be correct is, that there were some 30 or 31 persons from village Dhande for whom Ajit Singh purchased tickets. It also appears that there were some more persons from other villages of tehsil Phillor, but the number of such persons is not known. Some of those other persons had taken tickets in the country boat. They were probably not of the village of any one of these witnesses. Had any one in the country boat been from the village of any of these 14 witnesses, there is no reason why they would not have been able to give some definite information about them.

Even, from the general impression of these witnesses, some 75 or 77 members of their party including 17 children were in the motor boat. Eight or ten of them were in the country boat. A couple of witness are definite that there were 40 adults males, 35 adults females and 17 children (including 10 infants).

It is stated that every one of the 92 persons of this party had 30 to 35 kilos or near about luggage with them. Santokh Singh, W 2, has stated that 40 males carried luggage, which was between 30 to 32 kilos each. Some ladies also, who were without any male companion were carrying luggage. Lachhu has stated that every body carried luggage near about 25 kilos each. Sawan, W 5 stated that there were 40 persons carrying luggage 30-35 kilos each. Dalipa, W 11, stated that he had 20 kilos of luggage with him. Others may have more. The trend of the statement of these witnesses at first was that every body had 30 to 35 kilos of luggage. This trend was amended during the course of the inquiry and ultimately it came to this fact that every male member and every woman, travelling without a male member, was carrying luggage upto this extent. Some of the witnesses have gone to this extent that if there were 4 family members of a passengers, they were carrying 120 kilos of luggage.

Luggage as
alleged by
14 witness-
ses.

The version of these witnesses that they had so much luggage with them, cannot be believed from the following reasons:—

1. That they were travelling mostly on foot and no body will carry so much luggage on his back.
2. That they were going as pilgrims to Baba Balak Nath Sidh, where, it is alleged, there are utensils kept for the use of the pilgrims and there are enough arrangements for lodging.

A couple of witnesses were examined in details with regard to the nature of the luggage. They mentioned that they were carrying utensils, bedding and rations. One witness has gone to this extent as to suggest that it was not known as for how many days, they would be staying there. He indicated thereby that he was taking sufficient ration with him, which would be sufficient for a number of days.

From the general experience, what one has of the pilgrims that came to Baba Balak Nath, it is known that people come with one or two bed sheets or a blanket and with a little ration. Utensils etc. are managed at the spot. These witnesses, when examined, have stated that they have not paid anything for the luggage. It was known to them that only 10 kilos of luggage is allowed free to every passenger and if the luggage be in excess, it is also charged for. Sawna, W 5, has clearly admitted that general rule is that no charge is made for luggage upto 10 kilos and above 10 kilos, it is charged.

Apart from the witnesses mentioned above, a few others have appeared before the Commission. Some of them are employees of the contractor namely, Ratna, the driver, Chhotu, a boat man and Krishan Dass, one other passenger of the same boat. Bhagwana and Dina Nath, persons, who were at Bhakra Dam, but could not get seats. Lachhman Singh and Milkhi Ram, two shop-keepers or say stall-holders at Bhakra Dam. Radha Krishan, Shakti Chand, Jaishi Ram, persons, who have very often seen and travelled by the illfated boat.

The other
version about
the human
and other
load in the
motor boat.

Lachhman Singh, W 19, has stated that he saw the boat at its last trip on the 18th March. Every body was seated comfortably. They were not huddled up. There were small bundles of luggage, placed on the roof of the boat, which may be in all 2 to 4 mds. in

weight. Even on that day, the load of passengers and goods in that boat was as usual. He has stated that some persons could not get their seats. Milkhi Ram, W 10, has also stated that some passengers could not get seats. There were some bundles on the roof. The statements of these two persons show that there were just as many persons in the boat as could be properly seated. There was no seat vacant. Passengers had to be left.

The above is being confirmed by the statements of Bhagwana and Dina Nath, W 15 and W 16 respectively. Bhagwana has stated that he arrived from Anandpur at about 5.15 P.M. The engine of the boat had then been started, and the boat was about to leave. He shouted for a seat. The conductor replied that there was no seat left. He could not, therefore, get any seat. Dina Nath has stated that he arrived at Bhakra on the 18th March at about quarter past five. The boat started at about 5.30 P.M. He denied the suggestion that the boat was heavily packed and added that the seats in the boat were full. It was not packed and there was enough space in between those persons. He also stated that there were some goats on the seats. There were some bundles of luggage on the roof. The total weight of that luggage may be $1\frac{1}{2}$ mds. Their statements also show that the boats were full to the capacity and the conductor refused to take any more passenger, who were left behind.

Krishan Dass, who travelled on this boat on the day of occurrence, stated that he purchased ticket from Chhotu Ram, Conductor, who issued tickets for this boat. There was not huddling up in this boat and every body had a seat. There were no vacant seats left and some passengers were refused tickets. He also stated that there were some bundles weighing 5-10 seers each which were 10-12 in number.

Chhotu, conductor of the boat, W 22, stated that he sold and issued 69 tickets to passengers of that boat. Apart from those 69 passengers, there was driver, himself and one Gian Chand, employee of the contractor in the boat. He further stated luggage upto 10 kilos per head is allowed free. There were 5 or 7 bundles with the passengers. The weight of each of these bundles was 10 kilos. No ticket was, therefore, issued for this luggage. Both Krishan Dass and Chhotu have denied that there was any goat in the boat, but this fact is borne out from other evidence that goats were there.

Ratna, driver of the boat, stated that there were some 62-65 persons in the boat. Though, he himself did not count them. He also stated that there were some 10 bundles of luggage. Each one of these was less than 10 kilos in weight and there were three young ones of goats. The statement of Ratna that there were only 62-65 persons is not believeable, in view of the fact that carrying capacity of the boat was 72 and passengers were not issued tickets because the boat was full.

A boat, passed to carry 72 persons may even carry more passengers, if the weather is good. While passing a boat, some safety margin is always kept. There is, therefore, no wonder that a boat with more than 72 passengers may have travelled half of the journey without any mishap, or without any jump or jolt.

Chhotu has stated that he sold 69 tickets. But the ticket book has not been produced. No definite conclusion can, therefore, be drawn with regard to the number of persons seated in the boat.

It is in evidence that there were 17 children. Some below three years and some above three years upto the age of 12 years. It appears that 69 persons to whom tickets were issued by Chhotu were all of such ages for whom tickets were purchased. Out of those 17 children, there were definitely ten infants for whom no tickets were purchased. The actual number of persons in the boat was, therefore, not 72 including the driver and conductor, but it was something more. Even if, I believe that 92 persons started from Dhande and ten of them took their seats in the country boat, there were only 82 persons in the motor boat. 72 of them were adults and ten children. The three others were crews of the boat and 5 passengers from Himachal.

Regarding luggage, I may say that the ferry contractors try to get as much freight as possible. No contractor would ever allow any passenger to carry more than 10 kilos of luggage and if 40 persons or so are carrying 30-35 kilos of luggage with them, it is not possible that the contractor will allow them to carry it free. Shri K. S. Patyal, who has argued the case for the 14 witnesses, also has not seriously argued this point that 40 or more persons were carrying 30 or 35 kilos of luggage with them. While arguing he has also taken the weight of the luggage per head as only 10 kilos.

In view of the above, I agree with the statement of the conductor, Chhotu and other persons who have supported him in this respect that there were only a few small bundles, which consisted the luggage of the passengers of the illfated boat and which was kept at the roof of the boat. Keeping a liberal estimate of the luggage, it would appear that the total luggage may be not more than 10 mds. belonging to the passengers of the illfated boat, which was placed on the roof of the boat. It is also clear from the evidence on the record that there were some goats, big or small in the boat.

From the above, I am, therefore, of the opinion that there were 82 passengers out of them ten were infants, leaving a number of 72 passengers including residents of Himachal, who paid the freight. Even out of 72 passengers, seven were children upto the age of 12 years. There were three crews extra in the boat. There were 4 or 5 young ones, or big goats and maximum 10 mds. of luggage.

The cause of the accident is alleged to be storm that which came in Govindsagar on the evening of the 18th March. Witnesses Radha Krishan, Lachhman Singh, Milkhi, Shakti Chand, Hans Raj, Ratna, Chhotu, Shri Lakshman Dass, Deputy Commissioner, Bilaspur; Shri Mohinder Singh, Superintendent of Police, Bilaspur; have all stated that there was storm on the evening of the 18th March, which was followed by some rain. It rained the whole night and continued raining on the 19th March.

Krishan Dass, the survivor of the boat, has stated in his written statement that when the boat had travelled 100 yds. a storm

Conclusion.

Whether there was a storm in the Govind-sagar, which caused the accident.

raged in the Sagar causing high waves. The front of the motor boat was turned. The motor boat instead of going towards Brahmani Ghat went towards Nihani. On account of high waves, water came inside the boat. In his statement before the Commission, he stated that it was probably 6.00 P.M. or 6.30 P.M. when the storm came. But he stated that no water came inside the boat due to waves.

Chhotu has stated that when the boat was started, the weather was clear. When they were at a distance of some 100 yds. from Brahmani Ghat, a storm reged in the Sagar and turned the face of motor boat. On account of the force of the storm, the boat arrived at Nihani instead of going to Brahmani Ghat. The storm and the waves sometimes took the boat forward and sometime brought it back. In his statement before the Commission, he stated that wind started blowing when they were probably 400 feet from the Brahmani Ghat. When the storm came, they were probably 200 feet from Brahmani Ghat. The waves turned the face of the boat. The waves were high, but no water came inside the boat. When he had jumped out of the boat to the bank, waves pushed the boat forward and backward. The waves in the Sagar remained as high as they were at the time when the face of the boat was turned.

Ratna, the driver of the boat, has stated that when the boat was at a distance of 100 yds. from Brahmani Ghat, a big storm came from the southern direction. That storm turned the face of the boat towards north. Waves were caused in the Sagar by that storm. By the force of the storm the boat went towards Nihani. He could not control the boat against the force of the storm. In his statement before the Commission, he has stated that when the storm raged in the Sagar, which turned the face of the motor boat, there rose up waves as high as 18-20 feet, but no water came inside the boat. When the storm had turned the face of the boat, he tried to take the boat towards Badgaon Nala, but could not control the boat due to heavy storm. When the boat was at a distance of 10-15 yds. from the bank, he had brought the engine in neutral position. Further on, the boat was driven by the storm and the waves. The boat struck against the hillock due to waves and storm.

Lachhman Singh and Milkhi Ram who had seen the boat starting from Bhakra have both stated that there was a huge storm after sometime of the departure of the boat. That storm even destroyed a hut, which was near the police post at Bhakra. Other huts were also destroyed by the storm.

Radha Krishan, who heard the news of this accident at about 10.30 P.M. has stated that there was a storm at about 6.00 or 6.30 P.M. at Kosri, where he was residing. Some houses in his area were damaged by that storm.

Shakti Chand, W. 24, an employee of Bhakra Administration and a permanent resident of Hamirpur has stated that he heard the news of the accident on radio on the 19th and he remembers that on the 18th March, there was a storm at 6.00 P.M. On the 20th, he rendered some help to the authorities at the site and had

brought hooks etc., with him for searching dead bodies in the water.

Shri Lachhman Dass, Deputy Commissioner, Bilaspur, has stated that when he received the message from the Superintendent of Police, Bilaspur, about this accident, he had at once remarked in presence of a colleague who was then sitting by his side, that last night's storm and rain was bound to cause such troubles.

Shri Mohinder Singh, Superintendent of Police, Bilaspur, has also stated that when he received the information about this accident, he was at once reminded of the bad weather, storm and rain of the previous evening.

From the statements of the above mentioned witnesses, it is very clear that near about 6.00 P.M. on 18th March, there was a storm. The first set of witnesses who are survivors of the illfated boat have all denied that there was any storm or wind in Govind-sagar when the boat was on its journey from Bhakra Ghat to Brahmani Ghat.

Thakur Karam Singh, W 30, who was directed by the Deputy Commissioner, Bilaspur, on the 20th March, to enquire into this accident, had recorded the statements of almost all the first 14 witnesses. In their statements, they have stated that the cause of this accident was the storm. Water came inside the boat on account of the storm.

I may refer to only a few of those statements.

Santokh Singh, W 1, in that file has stated that when they were at a little distance from the bank, the weather became bad and there were jerks in the boat. That portion of his statement is marked A to A in Ex. W 2/A. He has further stated in the same statement that the storm came at 6.30 P.M. The portion is marked as B to B. He did not go to Baba Balak Nath because on the following day too, it had been raining throughout. The portion is marked as D to D. He also stated that the driver informed the passengers that the boat is not being controlled in view of the storm. The motor boat was tossing up and down. These portions are marked as F to F and G to G.

Jit Singh's statement before Thakur Karam Singh is Ex. PW 12/A. He stated that there was nominal drizzling. That portion is marked as C to C. When half of the journey had been covered, heavy rain and storm had started. The driver brought the boat to the place of occurrence. It did not reach there on account of the storm. These portions are marked as E to E and F to F. When they were at a little distance from the bank the storm was in greater intensity. The storm was pushing the motor boat. That portion is marked as G to G. Water had entered in the motor boat on account of storm. It was tossing up and down due to storm. It also struck against the bank with force. This portion is marked as H to H.

Lebhar was also examined by Shri Thakur Karam Singh and his statement is Ex. PW 9/B. He had stated that when they had travelled half of the journey, storm came with great force, the motor boat and the country boats were pushed. The portion is

marked D to D. On account of the storm, the motor boat arrived at the place of occurrence instead of going to Bhramani Ghat. That portion is marked as F to F. The motor boat, due to waves, used to toss this way and that way and water had also entered in the boat due to waves. The portion is marked as G to G. The motor boat struck against the bank several times. The portion is marked as H to H.

Lachhu's statement Ex. PW 6/A was also recorded by Thakur Karam Singh. He has stated that when they had travelled half of the journey, at that time, the boat started tossing. The portion is marked B to B.

Thakur was examined as C.W. 8. His statement is Ex. PW 8/A. He stated that the accident happened due to storm. The portion of his statement is marked A to A. Nakshatar Singh, was examined as C.W. 12. His statement is Ex. PW 14. He stated that the storm was of such intensity that the heads of the passengers used to strike against the roof. He received an injury on his forehead and just above his left eye due to striking against the roof. These portions of his statement are marked A to A and B to B in his statement. Further on, he has stated that due to heavy storm, water came inside, the boat. The boat was tossed. The boat several times went further and came back. In his statement, portion D to D, he had definitely stated that the storm was the only cause of this accident.

Faqir Chand's statement is Ex. PW 10/A. He stated that the motor boat sank due to storm. That portion of his statement is marked A to A. He also stated that waves were coming due to storm. When the motor boat struck against the bank, it tilted to one side and water entered into it. That portion of his statement is D to D.

Rulia was examined as CW 20 and his statement is Ex. PW 3/A. He has also stated that the accident took place due to storm. That portion of his statement is marked A to A.

Shri Lachman Dass, Deputy Commissioner, Bilaspur, Shri Mohinder Singh, Superintendent of Police, Bilaspur, Shri Thakur Karam Singh, Magistrate 1st Class, Bilaspur, Doctor Sukla and all other who visited the site of occurrence on the 19th March namely, Pradhan of the Panchayat, Mehbub Beg etc., saw the pieces of the roof of the boat lying at the spot. They also saw that some splints were lying a few feet above the water level of the Sagar on the 19th and 20th March. That fact also clearly indicates that these were brought there by the waves. Many of them have observed the marks of waves on the hill side.

This occurrence is definite proof of the fact that there were high waves in the Govindsagar. These waves left all these splints planks and a life-buoy at that place, which was much above the ordinary water level of the Sagar during those days.

Conclusion

It is clear from the above, that there came a storm in the Sagar. When the motor boat had covered half of the journey, according to some witnesses, water started coming in. At that time if not storm atleast strong winds were in the Sagar. When the boat was at a distance of 100 yds. from Brahmani Ghat a heavy

gale struck the motor boat, which turned its face. Some witnesses have said that more water came in at that time. Ultimately when the boat was almost at the bank, the engine of the motor boat was brought in neutral position. The boat was being tossed by the waves. It was taken forward and backward by the storm and waves. It struck against the hillock and tilted. Water in such quantity entered in the boat that it sank with passengers that were in the boat.

No party has tried to bring on record anything about the weather conditions on that day except that there was some rain. I, therefore, sent for a report from the Meteorologist Department, New Delhi. I was informed that there is no such record kept at Bhakra. On the basis of information received by them, from the Meteorologist Observatory, Bilaspur, they informed me that surface wind was recorded at 7.30, with south-west direction of 12 Km. velocity P.M. The following news item about weather appeared in the 'Tribune' dated March 19, which is also very relevant:—

Weather condition on 18th March.

Chandigarh: Evening shoppers and strollers—most of them clad in saris or cotton shirts—shivered to-day in the State Capital when cool winds blew in the wake of some dazzling.

The weather was unusually cold to-day.

Simla: The entire Simla region was hit by a severe storm late this evening. The storm, which lasted over 40 minutes, was accompanied by rain.

Ambala: Following a spell of warm and dry weather, Ambala had a dust-storm of high velocity this evening. This was followed by rain which dropped the mercury considerably.

Patiala: A severe hail storm hit Patiala this morning which lasted about 10 minutes.

The hail storm was followed by rain which is considered to be harmful to the standing crops.

The above shows that on the evening of the March 18, there were cold winds in Chandigarh, storm lasting for 40 minutes in Simla and dust in Ambala.

I do not consider the above as a piece of evidence, but I feel morally convinced that my conclusion, that there was a storm in Govind Sagar at about 6.30 P.M. is confirmed.

It is alleged that a country boat was tied to the motor boat. This fact is admitted that a country boat was tied to the motor boat. The first set of 14 witnesses have stated that after the motor boat had left the bank at Bhakra and had travelled a few karams, a country boat carrying 55 to 65 passengers was tied to the motor boat. Some witnesses have stated that when the motor boat was coming from Brahmani to Bhakra, they met a country boat. This country boat was again met when the motor boat had taken passengers from Bhakra and was near the middle of the journey to Brahmani Ghat. That country boat had some passengers who were of the same party, many of whom were in the motor boat. The passengers requested that the country boat be tied to the motor boat, so that all the members of the party

Whether a country boat was tired to the motor boat if, so what was its effect and when was it disconnected.

may reach the Ghat together. The country boat was subsequently tied to the motor boat. The fact remains that the country boat was tied to the motor boat and this cannot be denied.

Some witnesses have tried to exaggerate the matter. Sansara, W 1, has stated that when they had travelled a mile, some passengers from the country boat were brought to the motor boat. This fact was neither mentioned by any other witness nor was mentioned by him in his own written statement. Rattan, W 7, has given a new story. He has stated that another boat was met while on their journey. Some four or five persons along with their luggage consisting of 20 kilos of wheat flour and two bundles of cigarettes, came to the motor boat.

After perusing the statement of Rattna, it appears to me, that the motor boat met a country boat which was carrying some of the passengers, who were of the same party as passengers of the motor boat. It was then that the country boat was tied to the motor boat at their request.

Country boat separated from the motor boat when storm came.

It is in evidence, that water started coming in when the motor boat had completed half of the journey. When the motor boat was at a distance of 100 to 200 yds. from the Brahmani Ghat, more water came in, according to one version and a big gale and storm came according to the other version. The motor boat was then disengaged. Naturally, it was then dangerous to keep the country boat tied to the motor boat. Keeping both boats tied at that stage, if it was a gale, was dangerous. Neither passengers of one boat nor that of the other boat would have allowed it. It, therefore, appears certain that when a big gale came in the Sagar, the two boats were separated.

Shri Patyal has argued that by the tying of the country boat with the motor boat, the speed of the motor boat was retarded and it did not arrive at the Ghat in time. The question arises whether by the tying of the country boat with the motor boat, the speed of the boat decreased or not. There is no definite evidence on the record to show if the speed decreased. Excepting Rattan, W 7, all the 14 witnesses, the survivors of the boat, have not stated that the speed of the motor boat decreased by the tying of the country boat with the motor boat. But Shri Patyal has argued that this must have been the natural effect of the tying extra weight to the motor boat. I agree with him that the natural effect of tying another boat, full of passengers, with the boat which was already full to its capacity, will be a little retarding the speed of the motor boat, because the engine in that case has to drag more weight.

Conclusion.

The tying of the boat may have retarded the speed of the boat to some extent, but this was not the result of the sinking of the motor boat because the motor boat had been disconnected much earlier.

Whether water started coming inside the boat, if so, when and

The set of 14 witnesses have stated that water started coming into the motor boat after they had crossed half of the journey. Sansara, W 1, has stated that when they were in the centre of the Govind Sagar, boat started tilting. When the boat was beyond the centre of the journey, the water started coming in. When

the boat was within 100 yds. from the bank more water started coming in but it was not enough to sink the boat. When the boat was within 8-10 feet, there was more water inside the boat. He has not given us the reason as to how the water came inside the boat.

Santokh Singh, W 2, has stated that when motor boat was in the middle of the journey, water started coming in due to over loading. When the boat was near the bank, more water had come in. He has further stated that motor boat tilted sideways and water came in due to over loading of the motor boat. Greater part of the motor boat was then under water. He also added that water came in due to waves. He admitted that there was no hole in the boat from which water would come in.

Rulia, W 3, stated that the motor boat was over loaded and due to this, water started coming in.

Lachhu, W 4, has stated that the load of the boat was the cause of the water coming inside the boat.

W 5, Sawarna, has also stated that water started coming inside the boat due to overloading. The inflow of the water inside the boat was so much that the two buckets could not help. According to him, water came in from all the six windows. The boat came alright upto the middle and till then neither it tilted nor water came in.

W 6, Mohini, has stated that when they had covered a distance of only one mile, water started coming in. He further stated that water came in from cracks in the boat. More water rushed, when they were at the distance of some 4 karams from the bank.

W 7, Ratna, has stated that when the boat was at a distance of one or one and a half mile from the bank, water started coming in. At the time when the driver jumped out of the boat, water inside the boat was knee deep. He has further stated that he saw water coming in from the bottom of the boat. It continued collecting inside for a distance of one or one and a half mile, but could not say, if any plank in the bottom of the boat was broken or there was any crack.

W 8, Thakur, has stated that when they had covered half of the journey, water started coming in from above the sides of boat. Water inside the boat became thigh deep. When the boat was within 10 karams from the bank, it was full with water upto the sides. Before this, the boat had not struck against the bank.

Lebhar has stated that water started coming in when they had covered half of the journey. He did not know how water came in, but he felt water when his feet were wet. According to him, the boat was tilting due to heavy load and water continued increasing.

Faqiria, W 10, stated that when half of the distance had been covered, water started coming inside the boat, but could not say how the water came in. He, however, stated that it must have come through some cracks in the boat. He further added that when the level of the water inside the boat was knee deep

what was its cause ?

the driver jumped out of the boat. The water level inside the boat became knee deep within half an hour.

W 11, Dalipa, has stated that when they had covered half of the journey, the boat started tilting due to load and water started coming inside the boat. When water inside the boat was upto waist level, the driver jumped out of the boat.

Jit Singh, W 12, has stated that when they had covered half of the journey, the boat started to take jerks and jumps and sometimes it used to strike with the country boat. As a result of that, water of the Sagar flowed over the railings and came inside the boat. When they were within 10 karams from the bank, the water level inside the boat was $1\frac{1}{2}$ inches less than the windows.

Amrika, W 13, has stated that when they had crossed more than half of the journey, water started coming in and when they were near the bank, the boat was almost full with water. Water level inside the boat at that time was 3 inches below the window, then the driver jumped out.

Nakshatar, W 14, has stated that when they had covered half of the journey, water started coming in. It continued increasing till it was within 2 inches of the window level.

Another survivor of this illfated motor boat was Krishan Dass. He has stated that no water came inside the boat on account of waves caused by the storm, because the body of the boat was high and the lower portion of the window was closed. He has further stated that so long as he was inside the boat, there was no water in the boat.

Chhotu, a crew of the boat, has appeared as W 22. He has stated that when heavy waves rose, which turned the face of the boat, the waves were very high, but no water came inside the boat. The waves in the Sagar were sometimes upto the height of 20 feet. When the boat struck against the bank third time, it went back and water came inside the boat. The boat sank due to the weight of the water. Rattan Chand has appeared as W 23 and stated that when he was inside the boat at the time of its striking against the bank, the water level inside the boat was upto knee deep.

Water did
not come
inside the
boat due
to over-
loading.

From the above, it will be clear that almost all of the 14 witnesses have stated that after they had crossed half of the journey, water started coming inside the boat. This fact probably is true, but the cause of water coming inside the boat as mentioned by these witnesses, both in their written statements and in their oral statements, made before the Commission, is not correct. Some of them have stated that water started coming inside the boat due to load. A man with common sense will not believe it to be true unless this is also pointed out that the boat sank immediately as soon as water started coming in. If the boat was so overloaded as to cause water to flow in from above the sides, the boat cannot proceed as it will be soon full with water and it will sink.

The motor
boat was
not tilted

Some of the witnesses have suggested that due to load, the boat started tilting and, therefore, the water of the Sagar entered

in the boat from above the railings of the boat or from the windows of the boat. This also is not believeable. The evidence on the record is that people kept sitting in the boat and they continued reciting *kirtans*. Tilting could be caused only if the balance in the boat is disturbed by moving of a number of persons from one side to the other or it could be caused by waves, which may be due to some severe winds or storm. There is nothing on the record to show that the balance of the boat was disturbed by moving of persons from one side to other. The only cause for jerks and jolts, if any, caused to the boat, could be the waves which may have been caused by some winds and storm.

Some others have stated that they felt the water inside the boat when their feet were wet and they have suggested that probably there were some crack inside the boat. It is strange that no water came inside the boat through any crack when they had crossed half of the journey and water started coming only after they crossed half of the journey. The story that water came in from the cracks is, therefore, not believeable. Had water came in through cracks, the quantity of water should have been controlled by taking it out with the help of the containers, which, it is alleged, were kept in the boat for emergency purposes. Though, many of the witnesses out of the first 14 witnesses have stated that there was no container, but Sawna, W 6, has stated that there were two buckets. They have been throwing out water with the help of these buckets. In flow of the water was more than what could be drained out. His statement is that due to heavy load, water started coming in through windows.

From the perusal of the statements of these witnesses, it is quite clear, that these persons have not given the correct versions to the Commission. Whereas, in their statements before the Magistrate, which was recorded soon after the accident, they have mentioned that there was huge storm in the Sagar, which caused the accident. I will discuss those statements at their proper place. It appears that neither there was any crack in the boat nor it was due to load of the boat that water came inside the boat. It also does not appear to be correct that no water came inside the boat when there were high waves as high as 15-20 feet. My conclusion is that some water came inside the boat when the waves were high. But that water was not sufficient to cause the boat to sink as Sansara has stated. Since there were empty containers inside the boat, kept for emergency purposes, the passengers may have used those.

Water really started coming in after the intensity of the storm was high and it had turned the face of the boat. But the quantity of the water entering inside the boat through waves alone was not very considerable.

Sansara, W 1, has stated that when the boat was at a distance of 100 yds. from the bank, more water came inside the boat, but it was not enough to sink the boat. When the boat was within 8 to 10 feet from the bank, more water came in. The driver took his life-buoy and went out. The engine of the boat was still working.

When did the driver leave the boat and whether he left the engine on (in motion).

There was no crack in the boat, nor water came in through crack.

Conclusion

Santokh Singh, W 2, has stated that when the motor boat was full of water, driver left the boat. He jumped out. The engine was left in working condition. The boat was at a distance of some 15 to 20 feet at that time from the bank.

Rulia, W 3, has stated that when boat was some 4 to 5 karams from the bank, the driver jumped out and swam to the bank.

Lachhu has stated that when the motor boat was at a distance of some 15 karams from the bank, the driver of the motor boat jumped out.

Sawna has stated that when the boat was near the bank and much water had come inside the boat, the dirver jumped out of the boat and the engine was still on.

Mohini has stated that when the boat was within 4 karams from the bank, the driver of the motor boat jumped out. The engine of the boat was still on.

Ratna, Lebhar and Faquiria have stated that when the boat was at a distance of 4 to 10 karams from the bank, the driver jumped out.

Dalipa has stated that when water inside the boat was upto waist, the driver left the boat and jumped out. The engine was still on.

Jit Singh, W 12, has stated that when the boat was at a distance of about 10 karams from the bank, water level inside the boat was $1\frac{1}{2}$ inches less than the hieght of the window inside the boat. At that time, the driver of the boat jumped out of the boat. The engine was left in working condition.

Amrik Singh has stated that when they were near the bank, the boat was almost full with water. The water level inside the boat was some 3 inches below the windows of the boat. The driver then jumped out of the boat and left the boat, leaving the engine on.

Nakshatar has stated that the water level inside the boat continued increasing till it was within 2 inches below the window of the boat. The driver jumped out leaving the engine on.

From the statements of the above wintnesses, it appears that when the boat was within some 10 to 15 feet from the bank, boat was almost full with water. It was then that the driver jumped out of the boat leaving engine in working condition. Some of these witnesses have also stated that since the driver left the boat with engine on, it struck against the hillock and rebounded.

Rattan Chand, the driver of the illfated boat, has stated that storm raged in the Sagar. It turned the face of the motor boat. There rose up high waves, as high as 18-20 feet. No water came inside the boat. It was even raining. All the windows were full open. The storm has been taking different directions. He tried to take the boat towards Badgaon Nala, but could not control it due to heavy storm. He raced the engine with a view to enter Badgaon Nala. He does not exactly know what happened. He does not know if the face of the boat was again turned to any direction by the storm. When the boat was at a distance of some 10 to 15 yds. from the bank, he brought the engine in neutral

position. When the boat was within a couple of feet from the bank, he directed his assistants to get out and hold the rope and the bamboo. Soon after all the persons sitting in the front rows jumped out. The boat at that time was being moved by the waves. It struck against the hill. High waves tossed the boat. After striking against the hill, the boat went back some 7-8 feet. Again, waves took it to the hill and it struck against the hill third time, its roof was broken. Till then he was inside the boat. The back of the boat first went down in the water and the boat sank. When the boat was sinking, he was driven out by waves and was taken to the bank. Some body caught hold of the arm and dragged him outside the water.

Chhotu, the assistant of the driver in the boat, has stated that when heavy waves rose which turned the face of the boat, the driver raced the boat on full speed. The gear was in neutral position at the time when it struck against the hillock. The gear was placed in neutral position when the boat was at a distance of some 3 feet from the bank. When the boat was at a distance of 1 foot or so from the bank, he caught hold of the rope and jumped to the bank. Soon after the passengers started jumping out. The boat kept standing at that place till a wave took the boat back. Another wave brought the boat towards the hillock. It then stuck against the hillock. The boat struck against the hillock third time, the roof of the boat was broken. At that time, the rope got out of his grip and the boat sank. When it rebounded third time, the water came inside the boat. The boat sank due to the weight of the water. The driver remained at the engine till the boat sank.

Krishan Dass, W 21, one of the survivor of this boat, has stated that he does not know if the engine was on or not, when the boat struck against the hillock. He does not know if the engine of the motor boat had been stopped. He has, however, stated that the driver directed the passengers to pass from the front side of the boat slowly and steadily and also asked them not to cause tilting of the boat. He has further stated that so long as he was in the boat, he was the driver at his seat. Some 30-35 persons had jumped out from the boat before him.

From the statements of the survivors of the illfated boat excepting that of Krishan Dass, driver and Chhotu, conductor, it appears that the driver jumped out of the boat before it struck against the hillock and he jumped when the boat was within a few feet from the bank. Some even have stated that he took a lifebuoy and jumped out. All these witnesses have stated that the dirver left the engine on as a result of which the boat struck against the hillock and smashed.

The story given by Krishan Dass, W 21, does not support the version of the first set of 14 witnesses. According to him, 32 to 35 passengers had jumped out of the boat and the driver has been directing them to get out from the front side of the boat slowly and steadily. This version appears to be correct and is being supported not only by the statements of Chhotu and Ratna, but also by certain casual remarks of some of the 14 witnesses.

These remarks refer to the quantity of water inside the boat when the driver jumped out. According to some, it was waist deep, according to others it was just $1\frac{1}{2}$ inches or 3 inches below the railing.

This quantity of water could have entered in only when the boat tilted after striking against the hillock. There is no other plausible answer for this much quantity of water being inside the boat. Had this much water been inside the boat earlier, that is before its striking against the hillock, it would have sunk down earlier with weight of that much water alongwith passengers left inside the boat.

Shri Subramanium, who examined the boat and its engine, has stated that the engine was found in neutral position. The story of Chhotu conductor and of Rattan Chand, the driver, is, therefore, correct that the engine was placed in neutral position before the accident took place. It was not in motion and if the boat was at all moved thereafter, it was moved by waves. It, therefore, appears that the driver brought the engine into neutral position only at the time when he was sure that the boat was now almost at the bank.

The story of the first set of 14 witnesses that the driver left the boat with its engine on, may not be wrong, engine may be on, but in neutral position and not in motion. A neutral engine of the boat is ineffective in controlling the motion of the boat, particularly when there are waves. It appears that the driver did his best in bringing the boat to the bank as soon as possible by racing the engine, soon after the storm was there. When he found that the boat has now reached at the bank, he placed the engine in neutral gear. The boat naturally was driven further with its own momentum as Shri Subramanium has said. He had directed Chhotu to get out and to hold the rope. Chottu was by that time already out side the boat. He jumped to the bank and held the rope. There was no place to tie the rope. Single handed he could not control the boat in that storm.

Conclusions.

As noted above, water inside the boat started coming in when there was storm and high waves. This happened when the boat was within 100 yds. from the ghat. The face of the boat was turned. The driver then raced the boat towards Badgaon Nala.

Mr. Subramanium has stated that the roof of the boat must has acted as sail in the storm. The 10 horse power motor was sufficient to drive the boat safely in ordinary condition. It appears from his statement that this much power was sufficient to driver through the ordinary resistance of water, but was not enough to resist the action of exceptionally heavy storm. Rattan Chand driver, is, therefore, correct in saying that he does not know actually what happened and whether the face of the boat was again turned.

There appears to be a storm of a great magnitude with a greater force than the force of the 10 horse power motor. The roof of the boat behaved like a sail to the boat, the engine was in a racing position. This all brought the boat soon at the site of occurrence. With the waves, the boat must have been

tossed up. Not much water could enter inside the boat. But when it struck against the hillock, naturally the boat must have tilted and water must have come in.

There is no question of rebounding of the boat. The place is not rocky. The boat struck against the hillock consisting of shale only. The boat was really driven back and forward by storm. The suggestion of the witnesses that the engine was on, meaning thereby that it was kept in motion and since the driver had left the boat earlier, it was not controlled and therefore, struck against the hillock and rebounded, is definitely wrong.

It is in evidence that when the driver left the boat, there was water knee deep or thigh deep, or as stated by Dalipa waist deep, or within 1½ inches from the window, as stated by Amrik Singh, or within 3 inches below the window, as stated by Nakshatar. This quantity of water entered into the boat only after the boat had struck against the bank, which might have tilted the boat and allowed water in. Had this much water been earlier in the boat alongwith seventy or ninety passengers, the boat would not have proceeded further to the bank. It would have sunk down there and then.

There is, therefore, no truth in the allegation that the driver took his lifebuoy and jumped outside the boat leaving the engine of the motor boat on (in motion), which caused the boat to strike against the hill and ultimately sank.

STARTING TIME OF THE BOAT FROM BHAKRA GHAT AND THE TIME OF ACCIDENT

The first set of 14 witnesses have tried to show that the boat started late after 6.00 P.M. All other witnesses have stated that the boat started from the Bhakra at or near about 5.30 P.M.

There is no doubt difference in the statements about the starting time of the boat from Bhakra Ghat, but one thing is common in the statements of all most all the witnesses that the weather at that time was good. Some witnesses of course have stated that there were some clouds.

The motor boat, it is stated, could cover the journey within 35 to 45 minutes. Even, if, I believe that the motor boat started at about 6.00 P.M., the half of the journey must have been completed within 20 to 25 minutes. (Some more time must have been taken by the motor boat on that day, as country boat was tied to the motor boat on the way). The motor boat upto half of the journey came alright and passengers continued reciting *kirtan* and praises of Baba Balak Nath.

The first set of 14 witnesses have stated that water started coming in the boat after it had done half of the journey. Some have stated that the boat started taking jerks and jolts. This probably was the time when some winds were blowing causing waves in the Sagar and the resultant jumps and jerks and jolts to the boat.

The boat then continued like that till they were 100 to 200 yds. from Brahmani Ghat. It is the time when it is alleged that

When was the boat started from Bhakra ghat and when did the accident take place?

more water came in. The driver, Krishan Dass and conductor have stated that a big gale came which turned the face of the boat. The boat must have taken another 20 minutes or so to cover this much journey if the winds were not favourable and even less than 15 minutes if the winds were favourable.

The boat had started at about 5.30 P.M. It reached the middle of the journey in the Sagar near about 6.00 P.M. when some heavy winds started blowing. The storm came in the Sagar after 6.15 P.M. In case it started at 6.00 P.M. the storm came in the Sagar at about 6.45 P.M.

From the time of the storm first appearing in the Sagar upto the place of occurrence, the boat must have taken more than 10 minutes as it was definitely driven by the storm. The engine had been raced at that time and there is nothing to show that the boat was moved against the direction of the storm.

It is alleged that there were lights provided in the boat. There was a bulb under the roof and there was a head light. But Shri Hakim Singh, counsel for the Contractor, has stated at the bar that lights were not put on.

Rattan Chand driver has stated that he could not see anything when he was near the bank. The fact that it was dark at that time, is alleged by some of the 14 witnesses also. But this darkness was not of the night time as suggested by some of the witnesses that the accident took place at about 8.00 P.M. or so. It was due to dust storm as Rattan Chand driver has stated. Ordinarily, in the middle of March, it is not night but is evening and dusk at about 7.00 P.M.

There is some indirect intrinsic evidence on the record, which supports that the accident must have occurred some time between 6.30 P.M. to 7.00 P.M.

Chhotu after the occurrence, went to the house of the Contractor and informed him of the occurrence. From the site of the occurrence, the house of the Contractor is alleged to be 5 miles. Hans Raj, Contractor, has stated that Chhotu arrived at his house at about 8.00 or 8.30 P.M. From there, he was sent to Pradhan, Radha Krishan. Radha Krishan has stated that Chhotu arrived at his house (the shop where he was sleeping) at about 10.30 P.M. He sent him to the Police Station Talai. Chhotu arrived at the police station Talai at 1.00 P.M. when the report was written.

The above facts are in such natural sequence that the varacity cannot be doubted. These facts clearly support the above conclusion that the accident took place before 7.00 P.M. and the motor boat must have started sometime at 5.30 P.M. or near about.

Conclusion.

From the above, I conclude that the boat started sometime after 5.30 P.M. Some winds started when it was near about 6.00 P.M., which caused some waves. Storm came after 6.15 P.M. and 6.30 P.M. which changed the face of the boat and made it impossible for the driver to control the boat. Storm or dust storm continued and somewhere before 7.00 P.M. the accident took place.

We find quite contradictory statements made by the first set of 14 witnesses. Why they have made such contradictory statements is not difficult to see.

Message of the occurrence was sent to the Himachal Pradesh Government on 19th March. Information was based on the report of Chhotu Conductor of the boat to the Pradhan, who sent written message to the S.H.O. Talai. The original message received at the Police Station Talai was that at about 6.00 P.M. the motor boat sank. Some passengers died and some have come out.

On this preliminary message was based a report in the Roznamcha. S.H.O. Talai sent message to the S.P. Bilaspur. S. P. Bilaspur informed the H. P. Government. The announcement by the Hon'ble Chief Minister, Himachal Pradesh was made on the same day in the Vidhan Sabha.

The D.C. Bilaspur visited the site on the 20th and on the 21st, he sent further report of what he had seen at the site and contacted people. It appears that a statement was made by the Hon'ble Revenue Minister, Himachal Pradesh, on the 22nd March, which may have been based on that preliminary report, when full facts were not known.

The D.C. Bilaspur had ordered an inquiry to be made by a Magistrate. The report was not yet available. The information supplied by the D.C. was definitely based on cursory observations and talk, because no body has even during the judicial inquiry been able to give the definite number of persons that were in the boat or number of persons who died.

Some other news items appeared from Nangal in which the number of deaths were stated to be one hundred.

In a news item (Tribune dated 31st March) Hon'ble Shri Rizk Ram, Irrigation Minister, Punjab, is reported to have stated that the tragedy took place due to the gross negligence of the driver of the boat, who did not observe the rules. He is also reported to have mentioned that the boat was overloaded, it was being plying in late hours and was being towed.

The above shows that the two governments have been receiving different informations.

During the course of inquiry, no body appeared on behalf of the Bhakra Dam Administration, or any body connected with the information that was supplied to the Punjab Government. The source of the information regarding the above facts is not, therefore, known.

During the course of inquiry, some of the witnesses out of the first set of 14 witnesses, who all belong to Jullundur district of Punjab, have stated that on their return to their villages, some district and tehsil officers of their locality visited their houses and expressed their sympathies.

It appears that something transpired during these days and after that. This set of witnesses have sent their written statements. These written statements are contrary to the statements which they have made before Thakur Karam Singh. One allegation

Reason for
two contra-
dictory state-
ments by
first set of
14 witnesses.

which is very prominent in those written statements, to which I intend to refer at this stage is, that Himachal Officers treated them as if they were prisoners.

When I examine their statements made before the Commission, I find that the above allegation has been inserted by the scribe without knowledge of these witnesses. All those, to whom a direct question was put with regard to this piece of statement, have denied to have got this fact dictated by them. Some others have stated that the written statements were not read over to them. But all have admitted that some persons were collected in Dhande village. There they decided about the subject matter of the written statements and all these statements were written by one Thakur Singh or Ajmer Singh.

Even with regard to the manner of writing these written statements, there is enough contradiction in their statements. Some say that 40 persons had collected, other have referred to only 16. Some have stated that these statements were written by the Secretary Panchayat and were attested by the Pradhan. Some have said that they sent their written statements in separately addressed registered cover.

Sansara, W 1, has stated that persons of his village informed him that a judicial inquiry is being held about this accident. He asked him to send his written statement to the Commission. All of them sat together and settled about the details of the statements to be written and sent. All statements were accordingly written there and then. Some in Urdu and some in Gurmukhi.

Santokh Singh, W 2, has stated that 16 persons collected and decided what to write. Thereafter, these statements were sent. He has further stated that a constable of their police station wrote these statements. That very constable brought him from his village to Dhande village. A little different version is given by Rullia, who says that some 40 persons collected at Dhande village and all statements were written in Urdu. He sent his statement separately. At least this last para of his statement is definitely wrong as 16 statements were received in two registered covers containing 8 each. Rulia's written statement is one of them.

Sawna, W 5, has stated that the Secretary Panchayat recorded these statements. All these statements were written at the Panchayat Ghar. These were attested by Sarpanch. Every one sent his written statement in a separate registered cover.

W 7, Ratna, has stated that Mansa, Secretary, Dhande Panchayat, was the scribe of these written statements. He has further stated that in his statement he did not dictate to Mansa that Himachal Officer maltreated them, nor mentioned that dogs were let loose on them. He has added that local officers of their village and tehsil went to every house to express sympathy. He admitted that the Magistrate, who recorded statements at the site did not threaten him.

Thakur, W 8, has stated that district officers of the Punjab came to their villages and expressed their grief and sympathy

in every house, whose member was involved in this accident. The Secretary of the Panchayat also came to their houses and prepared a list of all the losses suffered by them.

Lahhar, W 9, has stated that Jit Singh who purchased tickets for us, got a written statement dictated on this behalf. He does not know, whom he sent this statement. His signature was obtained on that statement. It was in Gurmukhi. He recognised Ex. PW 9/A as his signature. He further stated that this statement was not read over to him. All these statements were put in two registered covers. One was sent by Shri Devi Singh and the other by Shri Jit Singh.

From his statement, it is clear that Jit Singh took active part in securing written statements of these witnesses. He dictated statements without consulting the witnesses and without informing them as to what has been written in those statements.

Faquiria, W 10, has also stated that his written statement was not read over to him nor he knew what was written in that statement. He has further added that a man of Dhande Wala came to his village and he asked him to send a written statement to the Commission. In further cross-examination, he has stated that he was asked by a person of his village to sign it as he was told that it contains the assessment of losses suffered by him which consisted of ornaments of his wife and compensation of the loss. That statement after signature was handed over to Jit Singh and posted under a registered cover.

Amrik, W 13, has given a different story that the written statement was sent by the Secretary of the Gram Panchayat.

Nakshatar, W 14, has also stated that Secretary of Dhande Gram Panchayat called him and asked to sign the statement to be sent to the Commission. It was not read over to him but was thumb marked by him. Jit Singh only was present with the Secretary at that time.

It is clear from the above that these persons were called either by the Panchayat Secretary or by a constable. Sixteen such statements were written at one and the same place. Eight of these were in Urdu and eight in Gurmukhi. From the perusal of these statements it is clear that the subject matter, even the words in each set (of Urdu and Gurmukhi statements) are the same. These statements were received by me in two registered covers. The name of Ajeet Singh is on one of them and the name of Dev Raj on the other. The registered covers are now on record.

The circumstances under which these statements were written clearly show that these statements were written with ulterior motive and it was not intended to give the true story.

In all these written statements, it is stated that water started coming in due to overloading. Accident took place because the driver jumped out from the boat leaving the engine on. That the boat started after 6.00 P.M. when it was dark.

I find all these three factors in the version given in the 'Tribune' of the 31st March. It appears that the Panchayat authorities or some body who collected all these persons at

Dhande and got written statements recorded and signed, intended to stick to the version appearing in the paper mentioned above. It was, therefore, that these very facts were repeated in all these written statements and sent under two registered cover to the Commission.

There is nothing in the statements of these witnesses, before the Commission, to show that the statements made by them before Thakur Karam Singh were made under pressure, or threat etc. Though, some of them have stated before the Commission that they do not remember if they made a particular piece of statement before Thakur Karam Singh. Some others have definitely denied to have made those statements.

Thakur Karam Singh has appeared in the witness box. He was cross-examined at length by Shri K. S. Patyal, counsel for these 14 witnesses. There is nothing in his cross examination, which would show that Thakur Karam Singh brought any pressure on any one of them while recording these statements. Nothing has been brought out to show that Thakur Karam Singh recorded something which was not stated by these witnesses.

Even, in the statements of these witnesses, before the Commission, they have not alleged that any pressure was brought on them by any other officer or person, forcing them to make their statements. All that some of them have stated is that they were in grief and do not know what they have stated.

The statements of these witnesses, before the Commission, clearly leads to the conclusion that the written statements were not really dictated by these persons. These persons were simply made to sign these statements. Even the contents of these written statements were not read over to them. Some of them like Faquiria were told that these contain their claims regarding losses.

Allegations made in these statements against the Himachal Pradesh officers and the driver were made only to support the news paper version that appeared in the 'Tribune' dated 31st March, which probably was not based on any first hand information. I may even at the risk of repetition mention here that the Bhakra Dam Administration or its employees or any officer of the Punjab Government has not appeared to support that version, if it really was their version and if it has been correctly reported.

Conclusion.

The intention of these witnesses to stick to the version, that appeared in the 'Tribune' of 31st March, compelled them to say that there was no storm in the Govindsagar on that day, which fact as discussed above has clearly been proved and is contained in the statements of all these witnesses also, made before Thakur Karam Singh. They have even stated that the storm was the only cause of the accident. The driver did his best, but he could not help.

In view of the above discussion of the evidence and conclusions drawn, I now proceed to dispose off the four points of reference.

It has been discussed above and found that the motor boat, Jalmani, carrying some 72 passengers, three crews and some infants near about ten in number, started from Bhakra to

Brahmani Ghat at about 5.30 P.M. on the evening of the 18th March. It was also carrying some luggage of the passengers weighing not more than 10 mds. in weight.

in which the boat drowning tragedy took place.

The boat travelled alright without any accident upto half of the journey. Passengers were reciting *Kirtans* and Prayers of Baba Balak Nath.

Some winds started when the boat had travelled half of the journey. When the boat had to cover some 200 yds. or so, a storm came in the Sagar. A big gale struck against the boat which was of such an intensity that it changed the direction of the boat.

Boat had a Marine Motor Engine of 10 Break Horse Power. This power was according to Mr. Subramaniam, sufficient to safely steer through, a boat of this capacity and would cope with the ordinary resistance of water in the Sagar. But was not capable of keeping the boat steady, if the storm of an intensity and power of 4 times as big as the resistance power of water, were to come in the Sagar.

The motor boat had a super structure—a roof. This roof of the boat acted like a sail in the storm.

The result of the storm and gale that came in the Sagar was, that the driver could not control the direction of the boat. The power of the motor engine could not resist the force of the storm and the boat moved with the winds. It was virtually drifted by the storm.

The driver, it is alleged, tried to take the boat to Badgaon Nala where he expected that the storm will not effect much. The Nullah is a closed narrow strip of water going into the interior between hillocks. He raced the boat to enter the Nullah, but found himself at the site of the occurrence near a bank. The boat, it appears, was drifted to that site by the force of the storm. It was probably then that there was the dust storm also and nothing at a distance, was visible.

When the driver found himself near the bank, he asked his assistants to stand on the outer covered portion of the boat to be ready to jump out with the rope and the bamboo pole. He put the engine in neutral position. When the boat was at a distance of a couple of feet from the bank, the two assistants of the driver jumped out to the bank. Chhotu held the rope. Some passengers also then started jumping out. The boat was driven to the hill side by waves and it struck against the hill. It was again driven by the waves. Thrice it thus struck against the hill. Its roof was broken. It tilted. Water came in and it sank with passengers that were left in. During all this interval, many people tried to jump out. Those who probably jumped out when the boat was almost on the bank, reached at the bank safely. Those who jumped when the boat had drifted back, may have been drowned. Some were driven to the bank by the waves.

Dr. Shukla, Medical Officer, Bilaspur, on his arrival at the site of occurrence examined four dead bodies. He did not perform any post mortem examination, but was of the opinion that the death has been caused by drowning.

REFERENCE NO. 2. Number and nature of casualty.

Out of these four cases, on the body of Jhandu, he found a deep lacerated wound on the occipital region $4'' \times 2''$ with considerable bruising around. On the body of Jitta, he found a lacerated wound on the right side of his forehead.

He had examined two other cases, one of them was Ajeeet Singh of Delhi. He had bruise on right side of back. The other had swelling on right ankle.

It appears that all cases were not seen by the doctor. Some persons had gone to Talai when doctor came, Nakshatar Singh, W 14, had injury on his forehead and above his right eye, which injury was even examined by Thakur Karam Singh at the time of recording the statement of Nakshatar Singh.

Except the statement of Thakur Karam Singh and his report, no definite evidence has come on the record to show the exact number of deaths.

Nakshatar Singh has given me the names of some of the persons who died. He mentioned 24 persons of village Dhande, two of village Randhwaw and four of village Moa. These make only thirty as mentioned in Part A of the schedule attached to the report.

In their statements before the Commission, witnesses have stated about the deaths of their own relations. They have informed me of only 21 deaths. These are mentioned in Part B of the schedule including one of village Naghair.

In his report, Thakur Karam Singh has mentioned that he examined the survivors of the boat. They have stated that forty persons of tehsil Phillor died. Thakur Karam Singh had the opportunity of examining the witnesses at the spot soon after the occurrence. The memory of the witnesses was fresh at that time. I think that the statements made by those persons, soon after the occurrence, was correct and can be believed.

Conclusion.

From the above, I conclude that the maximum number of deaths was 41 souls caused by drowning and there were found only three cases of minor injuries, caused by the breaking of the roof of the boat, the broken part of which struck against some persons, who were still in the boat.

REFERENCE NO. 3.
Factors which contributed to and which were responsible for the tragedy.

It has been found from the discussion of the evidence that there were seventy two persons including 69 passengers in the boat, who had purchased the tickets. There were ten infants and 3 or 4 goats or young ones of goats. There was luggage not more than 10 mds.

The boat had an officially recognised capacity of 72 persons or 100 mds. of luggage. With the above load, it cannot be said that the boat was overloaded.

Though, there was more than 72 persons including infants in the boat, but while fixing the carrying capacity of a boat, the safety margin is always kept in view. Load of the extra infants in the boat, is, therefore, not material.

The very fact that the boat covered half of the journey safely, without any trouble and without any water coming in, suggests

that the load in the boat was not such as may have caused this accident.

Country boat was tied to the motor boat at some distance from the bank. It may have been tied at a few karams from the bank or at a distance of 400 yds. The practice of towing such boats ordinarily is not healthy, particularly when both boats are full to their capacity. But even after this boat was tied to the motor boat, there has not been any effect which may have caused the sinking of the motor boat. The motor boat as noted above, covered half of the journey nicely without any trouble, inspite of the load of the country boat. Towing of the country boat with the motor boat was not therefore, the cause of the accident. It has also been found during the discussion of the evidence that the two boats were disconnected much before the accident.

The set of 14 witnesses have stated that water started coming in after they had covered half of the journey. They have before the Commission avoided to say that there appeared strong wind causing waves in the Sagar. Though some of them admitted that the boat started taking jerks and jolts and started tilting. This shows that there were waves in the Sagar (not ripples) which may have been caused by strong winds and some water came in by slabs of waves.

This set of witness further stated that when they had to travel some 200 yds. to reach Brahmani Ghat, more water came in. Some of them requested the driver to take the boat to the nearest bank. These witnesses have not shown any special reason for this more water coming in. This in fact was the storm and the gale.

Some of these witnesses have stated that the boat struck against the hillock thrice. Every time it rebounded back. It tilted. Its roof was broken. Much water came in. From the evidence as discussed above, it is clear that the engine was placed in neutral position. The boat was thereafter driven by the waves to the hillock and again driven back. It was not being controlled by the engine. It was drifted to the site of occurrence by the storm. The storm in the Sagar after the face of the boat was turned, was of such intensity that the 10 H.P. motor was not sufficient to control the direction of the boat.

There was no anchor provided in the boat to fix it at some point. Though, it is not known whether anchor would have helped at all or not.

The super structure of the boat also helped in drifting the boat, which acted like a sail and carried it alongwith the winds and storm.

No sooner the conductor of the boat jumped out of the boat, passengers also jumped out. There was stampede in the boat. Passengers began shreaking and almost every body rushed to get out. The balance of the boat was naturally disturbed. It must have sank with the weight of the water.

Main cause, therefore, of the accident was the storm of such an intensity, which drifted the boat, tossed it and caused waves, which brought some places or slabs of water inside the boat.

There were other minor factors which may or may not have helped in saving some of the lives, by delaying the sinking of the boat. Sinking of the boat may have been delayed, (1) if there had been some anchor provided in the boat which could have been used. Whether the anchor would have got any grip in that sandy and shally earth of the hill or not, is not known.

(2) If there had not been the super structure of the boat which helped in drifting the boat. The possibility of saving the boat even in the absence of super structure is not very definite. But when I see that the country boat and its passengers landed safely, under similar circumstances, it appears that the super structure of the boat was one of the causes which contributed to this accident.

(3) The engine of the boat was put in neutral position. That meant that the engine had no control over the boat. It is suggested by Mr. Subramanium that putting the engine in reverse gear would have been of some help. This in my opinion again depended upon the intensity of the storm.

I am, therefore, of the opinion that the cause of the accident was the storm that raged in the Govindsagar. The super structure of the boat helped in drifting the boat. The absence of anchor in the boat, and the ignorance of the driver about the effect of putting the engine in reverse gear to control the motion of the boat, may be some of the causes which contributed to some extent indirectly to some loss of life. Had the boat not sunk for some more time, more lives would have been saved.

**REFE-
RENCE
NO. 4.
Responsi-
bilities which
can be fixed
of Govt. or
its em-
ployees.**

There is no direct allegation made by any person before the Commission either in written statement or in their oral examination that H.P. Govt. or its employees were in anyway responsible. Certain points were developed during the course of examination and across-examination of witness and the learned counsel, Shri. K. S. Patyal, has argued on the basis of those points. The points so brought out are as under:—

1. That no rules were framed under the Ferries Act by the Financial Commissioner as provided under Section 12 of the Act, for the control or management of public ferries and for regulating the number and kind of boats and their dimensions and equipment; the number of crews to be kept in boats; for the maintenance of the boat in good condition; for fixing the number of passengers and the bulk and weight of things to be carried in boats etc.
2. That no rules were framed by the Deputy Commissioner under Section 19 of the Act.
3. That the seating capacity of the boat fixed by the authorities was not based on any scientific rules.
4. That no checking of the boats is ever done with a view to find out (i) if it is overloaded (ii) if it has got navigation light (iii) if it plays within fixed times (iv) if it is over loaded or not.

All these factors have been fully replied by the representatives of the Government.

Shri Lakshaman Dass, Deputy Commissioner, Bilaspur, has appeared in the witness box and testified that before the ferry contract was auctioned, a set of terms and conditions of the contract was read over and explained to the prospective bidders. The prospective bidders after having understood those terms and conditions placed their signature in a register, as a token of their having heard and understood the terms and conditions.

Provisions made for the safety of passengers in the absence of rules.

These terms and conditions are contained in Ex. PW 27/B. Apart from other matters-these provide for:—

1. That the ferry shall be used from sun rise to sun set.
2. Sufficient number of employees should be engaged by the lessee to work on the ferry boat.
3. Any person plying the ferry rashly shall be liable to fine.
4. The Deputy Commissioner shall allot the number on each ferry of the lessee after inspecting them.
5. It shall be incumbent on the lessee to inscribe in Hindi/English (on the boat) the number of passengers and load to be ferried.
6. Lessee shall not be allowed to ferry such boats as are unserviceable and require repair.
7. Authorities have been named who can restrict the plying of unserviceable boats.

These terms and conditions show that administration had provided for the safety of passengers in the absence of rules.

Govindsagar falls within the jurisdiction of Himachal and Punjab. A part of Sagar adjoining to Kosrian Kalan is alleged to be a part of Punjab. Arrangements naturally with regard to ferries are to be made in consultation with the Punjab Government (see sec. 3 proviso to sec. 3 of the H.P. Ferries Act). As I understand, no permanent definite solution has been arrived so far. Naturally there is delay in finalising the rules. Himachal authorities cannot, therefore, be blamed for this. They have, therefore, done well in providing some terms in the contract that is entered with the contractors.

Rules under the H.P. Ferries Act are to be framed by the Administration or the Financial Commissioner. The question of delay in framing these rules has been discussed above. Under Section 19 of the Act, Deputy Commissioner has to frame rules only with respect to Private Ferries and not Public Ferry. We are at present concerned with the Public Ferry with respect to which Deputy Commissioner has not to frame rules.

D. C. has no authority to frame rules for Public Ferries.

In connection with this boat, the D.C. had directed the Panchayat Officer and the S.D.O. to examine and recommend the carrying capacity of the boat.

Fixing capacity of the boat.

Shri Trilok Singh, the then District Panchayat Officer, Bilaspur, has stated that he and Mr. Pandey an S.O. at Bilaspur went to Bhakra. They examined the boat. Mr. Pandey made some calculations and fixed the carrying capacity of the boat at 72 passengers including the crew. Mr. Pandey has also supported the statement of Mr. Trilok Singh.

It is in evidence that this boat Jalmani had been plying between Bilaspur and Bhakra in the previous year, a distance of nearly 50 miles. There has never been any complaint or accident. It is also in evidence that this contractor has been a contractor of ferries for a number of years, but there has never been any complaint of overloading.

Mr. Patyal has very seriously argued that the seating capacity fixed by Mr. Pandey was not based on any scientific rules. I agree with him that what Mr. Pandey has said or what Mr. Narain Swaroop has said about the fixing of the carrying capacity of a boat, may not be based on some scientific rules. But the fact is, Jalmani boat (the illfated boat) has been carrying this much load for atleast two years and there has never been any accident due to overloading. This for atleast practical purposes proves that this boat could carry 72 persons with approximately 18 to 20 mds. of luggage, keeping the luggage of each passenger at 10 kg only.

The administration had provided that the boats should be pleyed after sun rise and before sun set. Navigation lights in such cases are not necessary.

Checking of boats for overloading etc. Rulia, W 3, one of the witnesses from the first set of 14 witnesses, has stated that there was a constable on duty at Bhakra Ghat. He left after the boat left the ghat. He has further stated that every time a boat left the Ghat, the constable on duty has always been there.

Shri Mohinder Singh, S.P., Bilaspur, has stated that his predecessor has issued instructions directing S.H.O's. to check boats vide order copy Ex. PW 33/A. He has further stated that police officers are otherwise also duty bound under police rules to check ferries.

Shri Trilok Singh, District Panchayat Officer has stated that he had instructed the Panchayat Pradhans to check against overloading and over charging by ferry contractors. A cyclostyled copy of that circular has been brought on the record. Pradhan Radha Krishan, who appeared as witness, has referred to this circular and has stated that he checked the boats off and on. (That circular is Ex. PW 34/D on the record).

Providing equipments in the boat. The act provides that rules be made for providing equipment in the boat. Shri Patyal has argued that no rules were framed for providing safety devices like lifebuoys and life belts nor any rule was made that a boat should be provided with anchor.

Such safety devices are really necessary, but I find from the evidence that there were some lifebuoys provided in this boat. Witnesses who have tried to place blame on the driver for leaving the boat, have stated that the driver took a lifebuoy and jumped out of the boat. Pieces of lifebuoy were seen at the site of occurrence, above the water level on the 20th March. Whether these were provided under the terms and conditions of the lease or otherwise, but these were there. Empty containers were similarly provided in the boat, to drain out water, if for some reasons it enters into the boat. There is not term in the agreement for such

containers also. Some such commonly known devices are always provided in boats and I do not think that it was necessary to mention these in the terms and conditions of the agreement.

'Anchor' or anchor chain is ordinarily considered a necessary equipment, though usually in ordinary country boats we never see these. For long journeys these may be very essential, as compared to short journeys of a few miles. In exceptional weather, these may be very useful and necessary.

The act has provided that the boats should not be plying rashly and negligently as to cause danger. This would naturally cover that if the weather be bad, boats should not be plying. Taking a boat in bad weather and rough water is nothing but doing rash and negligent act causing danger to life. Anchor may not, therefore, ordinarily be necessary if a boat is not plying in bad weather as the distances to be covered are extending upto a few miles only.

It has been argued that the driver was not trained and that he was given licence without test. It is true that the driver was not trained in any institute, but he had practical experience. It is no record that he has been running this very motor boat ever since it was placed on water. Witnesses have testified that Rattan Chand is one of the best drivers. They have also stated there has never been any complaint about Rattan Chand. I find that Shri Anand Swaroop, Assistant Engineer, who had been incharge of public ferries during the period of Territorial Council had issued a certificate of efficiency to Rattan Chand. The very fact that Rattan Chand has been driving the motor boat ever since the boat is on water, shows that he is capable of driving the boat. Licence could, therefore, be issued to him on the basis of his practical experience.

The above discussion about the rules, checking and equipment etc., has only academic interest in the present case. It may have some instructive value for the future. But when we look to the circumstances of this accident, I find that neither the rules, nor the strict compliance thereof would have avoided this accident. This accident was not due to overloading.

The boat arrived at the bank without any loss of life. It could arrive there because it was sea worthy. The conductor had jumped out of the boat to hold the rope. Some persons had jumped out of the boat and landed safe at the bank. The waves which were very high tossed the boat, took it backward and forward and tilted it, with the result that water came into it. It sank with the load of water.

Had waves not so mercilessly tossed and tilted the boat, so much water could not have entered in the boat as to cause it to sink. Had waves delayed its action for sometime more, the rest of the passengers also could have come out and saved their lives.

For the above, therefore, neither Himachal Pradesh Government nor any of its employee was in any way responsible. This was due to natural causes directly and exclusively without human intervention. It could not have been prevented by any amount of foresight, pains and care reasonably expected from the government or its employees or the crews.

Licensing
of Driver

Conclusion.

Before I close, I have to thank Sardar Jaswant Singh, President of Bilaspur Bar, who helped me at every stage during the inquiry. My thanks are also due to Shri H. C. Anand and Shri Hakim Singh, who so nicely placed their respective cases. My special thanks are due to Shri K. S. Patyal without whose searching cross-examination and zeal in placing the otherside of the picture, much that is on the record would not have seen the light

Sd/- 31.7.65
 HEM CHAND,
Commission of Inquiry,
Himachal Pradesh.

SCHEDULE 1—PART A

- | | |
|-------------------------------------|-----------------------------|
| 1. Mst. Chinti w/o Bhagta | All of village
Dhande. |
| 2. Mst. Bhajan Kaur w/o Rulia | |
| 3. Mst. Gejo w/o Joginder Singh | |
| 4. Mst. Chandu w/o Nakshatar Singh | |
| 5. Chura s/o Rattana | |
| 6. Jhandu s/o Fatu | |
| 7. Baldev Singh s/o Lachhu | |
| 8. Mst. Karmi w/o Babu Ram | |
| 9. Richhu d/o Babu | |
| 10. Mehanga s/o Mangal | |
| 11. Mst. Oti w/o Mehanga | |
| 12. Mst. Gajan w/o Jiti | |
| 13. Mst. Pyaro w/o Gija | |
| 14. Chaman s/o Gija | |
| 15. Mst. Gudi d/o Gija | |
| 16. Gujjar Singh s/o Ram Lal | |
| 17. Mst. Usha Kaur s/o Gulzar | |
| 18. Gudi d/o Gulzar | |
| 19. Papu s/o Gulzar | All of village
Randhawa. |
| 20. Sarvan Singh s/o Raj Mal | |
| 21. Karam Singh s/o Labhu | |
| 22. Jai s/o Narinder Singh | |
| 23. Mst. Beantu w/o Soba | |
| 24. Sadhu s/o Hazaree | |
| 25. Mst. Mahinder w/o Santokh Singh | |
| 26. Dalip Singh s/o Santokh Singh | |
| 27. Mst. Bhani w/o Faqir Chand | |
| 28. Mst. Baksho d/o Faqir Chand | |
| 29. Ram Lal s/o Faqir Chand | |
| 30. Gurmegh s/o Faqir Chand | |

SCHEDULE 1—PART B

<i>Stated by</i>	<i>Relationship</i>	<i>No. of persons</i>
1. Sansara	Sister's daughter	1
2. Santokh Singh	Sister and daughter	2
3. Rulia	Mother and wife	2
4. Lachhu	Son	1
5. Sawna	Father and two nephews	3
6. Rattna	Son	1
7. Thekar	Brother's wife and her daughter.	2
8. Lebhar	Aunt and grand mother	2
9. Faquira	Wife, one daughter, three sons.	5
10. Amrika	Uncle	1
11. Nakshatar	Mother and wife	2

Sd/-in English,
 HEM CHAND,
*Commission of Inquiry,
 Himachal Pradesh.*

